

**BOARD OF PSYCHOLOGY**

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BOARD OF PSYCHOLOGY

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April 19, 2005

David Hirschman, Ph.D.
33 Hewit Drive
Corpus Christi, TX 78404

RE: Public Repeval in Case No. W246, entitled In the Matter of the Accusation
Against David Hirschman, Ph.D.

Dear Dr. Hirschman:

On or about December 24, 2002, the California Board of Psychology filed an Accusation against your license to practice psychology in California. The Accusation charges you with a violation of Business and Professions Code sections 141 and 2960(m). The Accusation is based on the Agreed Order issued by the Texas State Board of Examiners of Psychologists on April 5, 2002, under which the Texas Board placed your license on probation subject to terms and conditions.

It has been decided by the California Board of Psychology that a Public Repeval shall issue in this case. The Board acknowledges your successful completion of an educational course, and the successful completion of your Texas probation.

WHEREFORE, Pursuant to the authority of California Business and Professions Code section 495, you are hereby **PUBLICLY REPEVAL** by the California Board of Psychology.


Jaqueline Horn, Ph.D.
Jaqueline Horn, Ph.D.
President
Board of Psychology

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3 **DECISION AND ORDER**
4 **OF THE**
5 **BOARD OF PSYCHOLOGY**

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7 **DEPARTMENT OF CONSUMER AFFAIRS**

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9 The attached Stipulation for Public Reproval in case number W246, is hereby adopted as
10 the Decision and Order of the Board of Psychology, Department of Consumer Affairs. An
11 effective date of August 29, 2004 has been assigned to this Decision and
12 Order.

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14 Made this 30th day of July, 2004.

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18 _____
19 Jacqueline Horn, Ph.D.
20 President, Board of Psychology
21 Department of Consumer Affairs
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David Hirschman, Ph.D.

BILL LOCKYER, Attorney General
of the State of California
JANE ZACK SIMON, State Bar No. 116564
Deputy Attorney General
California Department of Justice
455 Golden Gate Avenue, Suite 11000
San Francisco, CA 94102-7004
Telephone: (415) 703-5544
Facsimile: (415) 703-5480

Attorneys for Complainant

**BEFORE THE
BOARD OF PSYCHOLOGY
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. W246

DAVID HIRSCHMAN, Ph.D.
33 Hewitt Drive
Corpus Christi, TX 78404

**STIPULATION FOR PUBLIC
REPROVAL**

License No. PSY 7584

Respondent.

IT IS HEREBY STIPULATED AND AGREED by and between the parties to the
above-entitled proceedings as follows:

1. An Accusation in case number W246 was filed with the Board of
Psychology (the "Board") on December 24, 2002, and is currently pending against David
Hirschman, Ph.D. (the "respondent.")

2. At all times relevant herein, respondent has been licensed by the Board
under License No. PSY 7584 issued by the Board on August 2, 1982. The license is valid, and
has been on inactive status since July 1, 1994.

3. The Accusation, together with all statutorily required documents, was duly
served on respondent and respondent filed his Notice of Defense contesting the Accusation. A
copy of Accusation No. W246 is attached as Exhibit A.

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4. Thomas S. O'Connor (Complainant) is the Executive Officer of the Board of Psychology. He brought this action solely in his official capacity and is represented in this matter by Bill Lockyer, Attorney General of the State of California, by Jane Zack Simon, Deputy Attorney General.

5. Respondent is represented in this matter by Michael R. Sharp of Sharp & Cobos, P.C., Attorneys at Law, 4705 Spicewood Springs Road, Suite 100, Austin, Texas 78759.

6. Respondent has carefully read, discussed with counsel, and understands the charges and allegations in the Accusation. Respondent has also carefully read, discussed with counsel, and understands the effects of this Stipulation for Public Reproval.

7. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel at his own expense; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every one of these rights.

8. In order to avoid the expense and uncertainty of a hearing, respondent admits that based on the action taken against him by the Texas State Board of Examiners of Psychologists as set forth in the Accusation, he has subjected his California license to disciplinary action. In mitigation, respondent has no history of discipline in California. The Texas action arose out of a single incidence. Respondent has successfully completed his probation in Texas, and all restrictions have been removed from his Texas license.

9. All admissions made by Respondent herein are only for the purposes of this proceeding, or any other proceedings in which the California Board of Psychology or other professional licensing agency is involved, and shall not be admissible in any other criminal or civil proceeding.

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10. IS HEREBY STIPULATED AND AGREED, based upon the above stipulations and recitals, that the Board, upon its approval of the stipulation herein set forth, may without further notice, enter an order whereby respondent as holder of Psychologist's License No. PSY 7584, shall by way of letter from the President Board of Psychology receive a **public reproof**; provided, however, that said public reproof is conditional on respondent's full compliance with the following conditions precedent:

A. CONTINUING EDUCATION COURSE

Within 90 days of the effective date of this Decision, respondent shall submit to the Board or its designee for its prior approval an educational program or course focusing on the area of forensic psychology. Respondent shall complete at least 12 hours of educational courses, and shall pay all costs of the educational program. Respondent shall complete the education course within 6 months of the effective date of this Decision. This program shall be in addition to the Continuing Education requirements for re-licensure.

B. COST RECOVERY

Respondent shall reimburse the Board for its costs of investigation and enforcement in the amount of eight hundred dollars (\$800) within 90 days of the effective date of this Decision.

11. Respondent specifically acknowledges and understands that the order for public reproof as a resolution to the charges in Accusation No. W246 is contingent upon respondent's full compliance with each of the conditions set forth in paragraph 10 of this Stipulation. If respondent fails successfully to complete the continuing education course within the time limits set forth above, or to pay the costs of investigation and enforcement as required, respondent stipulates and agrees that such deficiency shall constitute unprofessional conduct and an independent basis for disciplinary action pursuant to Business and Professions Code section 2960. In the event that any of the above occurs, respondent understands that complainant may file an amended or supplemental accusation, alleging, in addition to the allegations in the Accusation currently pending, general unprofessional conduct pursuant to Business and Professions Code section 2960. Upon the issuance of an amended or supplemental accusation as

described above, this matter shall be placed upon the calendar of the Office of Administrative Hearings for hearing on a priority basis.

12. Upon full compliance with the conditions precedent set forth in this Stipulation, respondent's psychologist's license shall be publicly reprovod by way of a letter from the President of the Board, which shall be in the same form as the letter attached as Exhibit B hereto.

13. In consideration for complainant's entering into this Stipulation, respondent hereby waives any right to challenge the legal effect of the Stipulation by way of petition for reconsideration, petition for writ of mandamus, appeal, or otherwise, and further waives any time-based defenses such as laches with respect to the delay created by entering into this Stipulation if it becomes necessary to pursue the allegations in the Accusation currently pending in case No. W246. After respondent has signed this Stipulation, he shall not be permitted to withdraw from the Stipulation unless it is rejected by the Board.

14. This Stipulation shall be subject to the approval of the Board. Respondent understands and agrees that Board staff and counsel for complainant may communicate directly with the Board regarding this Stipulation, without notice to or participation by respondent. If the Board fails to adopt this Stipulation as its Order, the Stipulation shall be of no force or effect, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action in this matter by virtue of its consideration of this Stipulation.

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ACCEPTANCE

I hereby certify that I have read the foregoing Stipulation for Public
Reproval in its entirety, that I fully understand the terms of the Stipulation and their legal
significance and the consequences of signing the Stipulation, and that I agree to this Stipulation.
I stipulate and agree that a FAX copy of my signature shall be binding as an original.

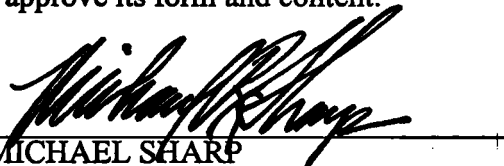
DATED: 6/20/04


DAVID HIRSCHMAN, Ph.D.
Respondent

APPROVAL

I have fully discussed with respondent the terms and conditions and other matters
contained in the above Stipulation and approve its form and content.

DATED: 6/22/04


MICHAEL SHARP
Sharp & Cobos, P.C.
Attorneys for Respondent

ENDORSEMENT

The foregoing Stipulation for Public Reproval is hereby respectfully submitted for
consideration by the Board of Psychology.

DATED: 6/29/04

BILL LOCKYER, Attorney General
of the State of California

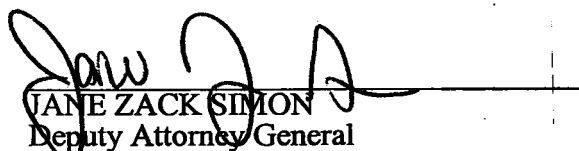

JANE ZACK SIMON
Deputy Attorney General
Attorneys for Complainant

Exhibit A

1 BILL LOCKYER, Attorney General
of the State of California
2 JANE ZACK SIMON
Deputy Attorney General [SBN 116564]
3 California Department of Justice
Office of the Attorney General
4 455 Golden Gate Avenue, Suite 11000
San Francisco, California 94102
5 Telephone: (415) 703-5544
Facsimile: (415) 703-5480

6 Attorneys for Complainant

FILED
STATE OF CALIFORNIA
BOARD OF PSYCHOLOGY
SACRAMENTO 12/24/2002
BY *John J. Jackmann* ANALYST

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9 BEFORE THE
BOARD OF PSYCHOLOGY
10 DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA
11

12 In the Matter of the Accusation Against:

Case No. W246

13 **DAVID HIRSCHMAN, Ph.D.**
14 33 Hewit Drive
15 Corpus Christi, TX 78404

ACCUSATION

16 License No. PSY 7584

Respondent.

17
18 THOMAS S. O'CONNOR, complainant herein, charges and alleges as follows:

19 1. He is the Executive Officer of the Board of Psychology, State of
20 California (hereinafter referred to as the "Board"), and makes these charges and allegations solely
21 in his official capacity.

22 2. On or about August 2, 1982, respondent David Hirschman, Ph.D.
23 (hereinafter referred to as "respondent"), was issued License No. PSY 7584 by the Board of
24 Psychology, authorizing him to practice psychology in the State of California. The license is
25 valid, and was placed on inactive status on July 1, 1994. The Board has taken no prior
26 disciplinary action against this license.

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JURISDICTION

4. This accusation is brought before the Board of Psychology under the authority of the following sections of the California Business and Professions Code (hereinafter "Code") and/or other relevant statutory enactment:

A. Section 2960 of the Code states, in pertinent part, that the Board may suspend, revoke or impose probationary conditions on a licensee for unprofessional conduct, which is defined to include, but not be limited to, any of the following causes:

(m) The suspension, revocation or imposition of probationary conditions by another state or country of a license or certificate to practice psychology or as a psychological assistant issued by that state or country to a person also holding a license or registration issued under this chapter if the act for which the disciplinary action was taken constitutes a violation of this section.

B. Section 141 of the Code provides:

(a) For any licensee holding a license issued by a board under the jurisdiction of the department, a disciplinary action taken by another state, by any agency of the federal government, or by another country for any act substantially related to the practice regulated by the California license, may be a ground for disciplinary action by the respective state licensing board. A certified copy of the record of the disciplinary action taken against the licensee by another state, an agency of the federal government, or another country shall be conclusive evidence of the events related therein.

C. Section 125.3 of the Code provides, in pertinent part, that in any order issued in resolution of a disciplinary proceeding before any board within the Department of Consumer Affairs, the board may request the administrative law judge to direct a licensee found to have committed any violation of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

D. Section 2964.6 of the Code provides that, "[a]n administrative disciplinary decision that imposes terms of probation may include, among other things, a requirement that the licensee who is being placed on probation pay the monetary costs associated

1 with monitoring the probation."

2 5. Respondent is subject to discipline within the meaning of section 141 and
3 is guilty of unprofessional conduct within the meaning of section 2960(m) as more particularly
4 set forth herein below.

5 **FIRST CAUSE FOR DISCIPLINE**

6 (Discipline Imposed by Another State)

7 6. On or about April 5, 2002 the Texas State Board of Examiners of
8 Psychologists issued an Agreed Order regarding respondent's license to practice psychology in
9 Texas. The Texas Board found that in May 2000 respondent performed a forensic engagement
10 regarding a child custody order. Although respondent did not examine the complainant, his
11 deposition testimony dealt with psychological characteristics of the complainant. Moreover,
12 respondent offered opinions which were not substantiated by his psychological records. Based
13 on these findings, the Texas Board placed respondent's license on probation for 12 months, and
14 required him to have a practice monitor, to take additional continuing education courses, and to
15 take and pass an examination in jurisprudence.

16 Attached as Exhibit A is a true and correct copy of the Agreed Order
17 issued by the Texas State Board of Examiners of Psychologists, case no. 00-306-1761.

18 7. The discipline imposed by the State of Texas Board of Examiners of
19 Psychologists constitutes a violation of section 141 and unprofessional conduct within the
20 meaning of Code section 2960(m).

21 **PRAYER**

22 **WHEREFORE**, the complainant requests that the Psychology Board hold a
23 hearing on the matters alleged herein and that following said hearing, issue an order:

24 1. Suspending or revoking Psychology License No. PSY 7584 heretofore
25 issued to David Hirschman, Ph.D.;

26 2. Ordering respondent to pay the Board the actual and reasonable costs of
27 the investigation and enforcement of this case; and, if respondent is placed on probation, the
28 costs of probation monitoring; and,

1 3. Taking such other and further action as the Board deems necessary and
2 proper.

3 DATED: December 24, 2002

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6 THOMAS S. O'CONNOR
7 Executive Officer
8 Board of Psychology

9 Complainant
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Exhibit A

TEXAS STATE BOARD OF EXAMINERS OF PSYCHOLOGISTS
NO. 00-306-1761

IN THE MATTER OF

DAVID HIRSCHMAN, PH.D.

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BEFORE THE TEXAS STATE

BOARD OF EXAMINERS

OF PSYCHOLOGISTS

AGREED ORDER

Pursuant to its authority under §501.410 of the Psychologists' Licensing Act (the Act) and §2001.056 of the Government Code, the Texas State Board of Examiners of Psychologists (the Board) hereby approves and enters this Agreed Order with the following Findings of Fact, Conclusions of Law, and Order of the Board, which have been approved and accepted by David Hirschman, Ph.D. (Respondent) and which constitute a full settlement and compromise of all complaints currently pending against Respondent before the Board in the above-referenced and numbered matter:

FINDINGS OF FACT

1. Respondent is licensed as a psychologist (#23405) in the State of Texas and is, therefore, subject to the jurisdiction of the Board under the Act.
2. Respondent performed a forensic engagement in May 2000 regarding a child custody matter. In the course of Respondent's deposition testimony, Respondent offered testimony pertaining to Complainant P.P.
3. Although Respondent did not formally examine the Complainant, Respondent's testimony dealt with the psychological characteristics of the Complainant. Further, Respondent did not have appropriate substantiation in his psychological records to render the opinions he did on the Complainant, and his attempts to qualify his opinions were inadequate to satisfy Board Rules as to forensic services.

CONCLUSIONS OF LAW

1. Respondent voluntarily received a license from the Board and, therefore, is bound by the provisions of the Act and the Rules of the Board.
2. Violation of the Board's Rules is unprofessional conduct and constitutes grounds for the imposition of sanctions under §501.401 of the Act.
3. Based on Finding of Fact number 3, Respondent violated the following Board Rules: 465.18 pertaining to limitations on and documentation of forensic services and 465.22 pertaining to

organization and completeness of psychological records.

ORDER

- I. Respondent, by signing this Agreed Order, hereby agrees that license No. 24508 is hereby placed on PROBATION for a period of twelve (12) months from the effective date of this Order under the following terms and conditions:
 - A. Respondent shall arrange for a psychologist approved by the Board to periodically monitor and report on Respondent's practice. The monitor shall meet with Respondent for at least 4 hours of face-to-face time per month, and submit reports to the Board quarterly concerning record keeping, practice management issues, and Respondent's compliance with the Board Rules of Practice. If the monitor approved by the Board is unable to continue, Respondent shall submit such information to the Board as soon as possible and suggest a replacement monitor, which must be approved by the Board or its designee. The monitor shall also review and pre-approve Continuing Education courses outlined in paragraph (B) below.
 - B. Respondent shall take, complete, and submit proof of completion of eight (8) hours of additional Continuing Education per licensing period for the duration of this Order. The courses shall be in the areas of professional ethics, record keeping and forensic psychology. Such courses shall be approved by the professional monitor as outlined in paragraph (A). In addition, the courses shall be APA-approved.
 - C. Within one (1) year of the date of this Order, Respondent shall re-take and pass the Board's mail-out Jurisprudence Examination.
- II. Respondent shall comply fully with all of the terms and conditions of probation imposed by the Board and shall cooperate fully with any Board representatives monitoring and investigating the Respondent's compliance with probationary terms and conditions.
- III. A violation of any of the terms or conditions of probation may terminate the probation and impose a suspension of the equivalent term, and may subject the Respondent to additional disciplinary proceedings and actions. Upon information that Respondent has violated any of the terms or conditions of probation, the Staff of the Board shall investigate the violation and the Executive Director, in consultation with the Chair of the Disciplinary Panel, shall make a determination whether a violation has occurred. If the Executive Director has made the determination that a violation has occurred, the Respondent shall be informed that the suspension has been reinstated. The Board's failure to prosecute or investigate one or more violations is neither a waiver of subsequent prosecutions of these or later similar violations.
- IV. Respondent understands that Respondent has a right to a hearing on this matter under the laws of the United States and the State of Texas. Respondent knowingly and willingly waives this right in exchange for the Board's agreement to impose the penalty as described in this Agreed Order. Respondent understands that if the Executive

Director, after consulting with the Chair of the Disciplinary Panel, is satisfied that any probationary terms have been violated, the Respondent's licensee may be suspended without any hearing. Respondent knowingly and willingly agrees that Respondent's license may be suspended without any hearing under these circumstances.

- V. On the underlying investigative file, Respondent has waived his right to a formal hearing before an Administrative Law Judge at the State Office of Administrative Hearings (SOAH) in exchange for the conditions set out in the Agreed Order.

THE RESPONDENT, DAVID HIRSCHMAN, Ph.D., BY SIGNING THIS ORDER, AGREES TO ITS TERMS, ACKNOWLEDGES UNDERSTANDING OF AND AGREEMENT WITH THE FORMAL NOTICES, FINDINGS OF FACT, AND CONCLUSIONS OF LAW SET FORTH HEREIN AND COVENANTS TO SATISFACTORILY COMPLY WITH THE MANDATES OF THIS ORDER IN A TIMELY MANNER.

FOR THE RESPONDENT:

DATE:

1-23-02

David Hirschman

David Hirschman, Ph.D.
719 Shoreline Blvd. #400
Corpus Christi, TX 78401

FOR THE STAFF OF THE BOARD:

DATE:

2/7/02

Bren D. Norbraten
General Counsel
State Bar No. 24002697
Texas State Board of Examiners
of Psychologists
333 Guadalupe, Suite 2-450
Austin, TX 78701

APPROVED AND SIGNED THIS

5th

DAY OF

April

, 2002.

M. David Rudd
M. David Rudd, Ph.D.
Chair, Texas State Board of Examiners
of Psychologists

Exhibit B

Exhibit B

David Hirschman, Ph.D.
33 Hewit Drive
Corpus Christi, TX 78404

re: Public Reproval in Case No. W246, entitled In the Matter of the
Accusation Against David Hirschman, Ph.D.

Dear Dr. Hirschman:

On or about December 24, 2002, the California Board of Psychology filed an Accusation against your license to practice psychology in California. The Accusation charges you with a violation of Business and Professions Code sections 141 and 2960(m). The Accusation is based on the Agreed Order issued by the Texas State Board of Examiners of Psychologists on April 5, 2002, under which the Texas Board placed your license on probation subject to terms and conditions.

It has been decided by the California Board of Psychology that a Public Reproval shall issue in this case. The Board acknowledges your successful completion of an educational course, and the successful completion of your Texas probation.

WHEREFORE, Pursuant to the authority of California Business and Professions Code section 495, you are hereby **PUBLICLY REPROVED** by the California Board of Psychology.

Very truly yours,

President
Board of Psychology